

3 FAM 3350 LEAVE FOR MATERNITY AND PATERNITY REASONS

(TL:PER-459; 12-04-2002)

3 FAM 3351 GENERAL

(TL:PER-396; 03-08-2001)

(Uniform State/Agriculture/BBG/Commerce/USAID)

(Applies to Foreign Service & Civil Service Employees)

a. A female employee may request annual leave, sick leave and/or leave without pay (LWOP) for pregnancy and childbirth incapacitation and care of a newborn.

b. A male employee may request annual leave, sick leave, and/or LWOP consistent with current regulations for purposes of care of a newborn child or the mother of his newborn child while she is incapacitated for maternity reasons.

c. Refer to 3 FAM 3530, Family Medical Leave Act (FMLA); 3 FAM 3410, Annual Leave; 3 FAM 3420, Sick Leave; 3 FAM 3130, Premium Compensation; and 3 FAM 3510, LWOP.

3 FAM 3352 AUTHORITY

(TL:PER-396; 03-08-2001)

(Uniform State/Agriculture/BBG/Commerce/USAID)

(Applies to Foreign Service & Civil Service Employees)

The authorities for this policy are as follows:

- (1) 5 United State Code (USC), Chapter 63 (Annual and Sick Leave);
- (2) 5 U.S.C. 5541-5550;
- (3) 5 Code of Federal Regulation (CFR) 630.301, Subpart C (Annual Leave);
- (4) 5 CFR 630.401, Subpart D (Sick Leave);
- (5) 5 CFR 630.1201, Subpart L (Family and Medical Leave Act); and
- (6) 5 CFR, Part 550 and 551.

3 FAM 3353 EMPLOYEE RESPONSIBILITY

(TL:PER-459; 12-04-2002)

(Uniform State/Agriculture/BBG/Commerce/USAID)

(Applies to Foreign Service & Civil Service Employees)

a. As with all leave requests, prior to taking leave, an employee should request leave in writing and complete a Form *OPM-71*, Request for Leave or Approved Absence, to request sick leave, annual leave and leave without pay for maternity and paternity reasons. The Form *OPM-71* must be submitted to the employee's supervisor, or the person acting on supervisor's behalf, for approval. The employee must include the type of leave, approximate dates and anticipated duration of leave to allow for any staffing adjustments that may be necessary.

b. For unpaid leave under the Family and Medical Leave Act of 1993 an employee should complete and submit a Form DS-1923, "Leave Application Request, to the employee's bureau executive director for approval.

3 FAM 3354 RESPONSIBILITY OF APPROVING OFFICER

3 FAM 3354.1 Medical Documentation

(TL:PER-396; 03-08-2001)

(Uniform State/Agriculture/BBG/Commerce/USAID)

(Applies to Foreign Service & Civil Service Employees)

If there are questions as to the physical ability of a pregnant employee to perform her job without hazard to her health, the approval officer should request that *the employee* furnish medical documentation. The approval officer may, after consultation with the employee, find it desirable to discuss the employee's general state of health with her physician or practitioner, and/or a health practitioner in the Office of Medical Services *with the employee's consent*.

3 FAM 3354.2 Determining Working Conditions

(TL:PER-396; 03-08-2001)

(Uniform State/Agriculture/BBG/Commerce/USDA)

(Applies to Foreign Service & Civil Service Employees)

a. The supervisor should *make an effort to be* aware of any particular working condition or strenuous requirements which may be part of the work environment and which could have an adverse affect upon employees with

various physical conditions, *including pregnancy*. The *Department's Office of Medical Services is responsible, as necessary*, on a case-by-case basis for determining whether any of *the physical requirements of the job* could have a harmful effect upon a pregnant employee or an unborn child. The employee should consult with her physician (and if abroad, with the post Foreign Service Health Practitioner, e.g., the regional medical officer or the post medical advisor) on this matter. If, after those discussions, it is found that the duties of the employee require activity or exposure which may be injurious to *the employee's* health or the health of her baby, every reasonable effort should be made by the supervisor to make reasonable adjustments to the current job or otherwise detail or temporarily reassign *the employee* to other available work for which she is qualified. *If work assignments permit, an employee may be eligible to telecommute. Guidelines for the use of telecommuting can be found at 3 FAM 2360.*

b. The objective should be to provide *the employee* with gainful employment and to make use of her skills for as long as she is able to perform the *duties of her regular position*. *If the employee has* medical documentation of her incapacitation for the duties of her regular position *and no other work assignments are available or she is unable to perform them*, she should be granted sick leave, annual leave, *and/or* leave without pay.

3 FAM 3355 CONTINUED EMPLOYMENT

3 FAM 3355.1 Employee Planning To Return To Duty

(TL:PER-396; 03-08-2001)

(Uniform State/Agriculture/BBG/Commerce/USAID)

(Applies to Foreign Service & Civil Service Employees)

An employee is entitled to continued employment in her original position or a position of like seniority and status and pay, if she wishes to return to work following delivery and incapacitation, unless termination is otherwise required by expiration of appointment, by reduction in force, for cause or for *other reasons* unrelated to the maternity absence. See 3 FAM 3530 for *employment and benefits*.

3 FAM 3356 THROUGH 3359 UNASSIGNED